

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 3:04-cr-186

- vs -

District Judge Walter Herbert Rice  
Magistrate Judge Michael R. Merz

DERIC E. MARSHALL,

Defendant. :

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**ORDER ADOPTING SUPPLEMENTAL REPORT AND  
RECOMMENDATIONS**

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The Court has reviewed the Supplemental Report and Recommendations of United States Magistrate Judge Michael R. Merz (ECF No. 57), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on June 27, 2016, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that Defendant's Motion to Vacate under 28 U.S.C. § 2255 (ECF No. 52) be DENIED WITH PREJUDICE and Defendant be denied a certificate of appealability. The Court hereby certifies to the Sixth Circuit that any appeal would be objectively frivolous and should not be permitted to proceed *in forma pauperis*.

The Clerk will enter judgment to the above effect and terminating this case on the docket.

June 29, 2016.

  
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Walter Herbert Rice  
United States District Judge